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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/393,899	09/10/1999	MICHAEL F. BRAITBERG	4154-3	3485

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EXAMINER

CHARLES, DEBRA F

ART UNIT PAPER NUMBER

3628

DATE MAILED: 04/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/393,899

Applicant(s)

BRAITBERG ET AL.

Examiner

Debra F. Charles

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 31-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 31-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 September 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other:

**DETAILED ACTION**

***Response to Amendment***

Claims 1 through 30 have been canceled and claims 31 through 40 have been added.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 31 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Selby, III et al. (US 4677604A).

Selby, III et al. disclose a method for distribution of content, comprising:

distributing information content-mastered optical disks to a plurality of users, wherein each optical disk includes the content(Abstract, col. 1, lines 55-65, i.e. "data base") and a unique identifier number(Abstract, col. 2, lines 5-20, i.e. "encoded symbol"), and wherein a first portion of the content on each optical disk is readable by an optical disk reader only in response to the following steps:

distributing a first or second permission code to the optical disk reader in exchange for a first payment generating a first or second access code by using the first or second permission code and the unique identifying number(col. 1, lines 55-65, i.e. prefer to only purchase that portion of the database which they might use", and Abstract, col. 2, lines 5-67, i.e. "additional encoded symbol", "bar coded symbol", "second reader adapted to read an encoded symbol", "used to provide access code"), and

the first or second access code onto the optical disk(Abstract, col. 2, lines 5-67, "access code is encoded on bar code label . . . attached to one surface of the disk at its point of manufacturer in accordance with the customer's order. Other code types, such as

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optically readable characters or various magnetic recording devices, are the equivalent of the bar code.”)

wherein the optical disk reader may read the first or second portion of the content stored on the optical disk(col. 2, lines 60-67, i.e. “access code on the label indicates those portions of the disk to which the user is entitled to have access”).

Selby III et al. does not explicitly disclose writing. However, it is inherent in Selby, III et al.’s invention that optically readable characters are written onto the optical disk. Thus, it would have been obvious to one of ordinary skill in the art to employ writing access codes onto the optical disk to get the benefit of building unique codes into the disk.

3. Claims 32 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Selby, III et al. as applied to claim 31 above, and further in view of Beetcher et al. (US 5933497A).

Selby, III et al. does not explicitly disclose(s) that distributing the first permission code comprises distributing the first permission code via an internet communications link and first access code is generated by a computer which is remotely connected to the optical disk reader over a communications link. However, in col. 5, lines 55-67, col. 6, lines 5-20 and col. 9, lines 20-50 thereof, Beetcher et al. disclose(s) that the encrypted entitlement key can be transmitted electronically, sales office has access to marketing computer system comprising an entitlement key generator/encrypter, software media comprise one or more optical read/only disks, and unit is an optical disk reader, it being understood that electronic distribution or other distribution media could be used, and generating an encrypted entitlement key. Thus, it would have been within the level of ordinary skill in the art to use an internet communications link to ensure electronic transmission of entitlement key or permission code.

4. Claims 33,36,37,38, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Selby, III et al. as applied to claim 31 and 39 above, and further in view of Srinivasan (US 6460076B1).

Selby, III et al. does not explicitly disclose(s) that wherein the content includes content selected from among text content, music content, software and motion picture content; step of distributing information content-mastered optical disks comprises downloading the content to the optical disks over a communications link; said communications link is an Internet link; and said first payment is a payment performed by authorizing a charge to a credit or debit account over a communications link. However, in Abstract, col. 2, lines 5-67 thereof, Srinivasan disclose(s) that the downloading and recording of data

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files over a data network such as the world wide web. A server connected to the world wide web includes a data base which includes a number of different data files such as music, video and software it wishes to sell . . . A system for billing the customers using credit card information. Thus, it would have been within the level of ordinary skill in the art to distribute content from various multimedia files to a write-on optical disk via the internet link and charge the customers credit card to ensure the downloaded files are transmitted electronically, paid for and copied onto optical disk.

Re claim 35. Official notice is taken that it is old and well known in the computer art to distribute information content-mastered optical disks unsolicited such as AOL does when sending out optical disks in the U.S. mail. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to include unsolicited optical disks to get the advantage of wide distribution of content-mastered optical disks.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Edenson et al. (US 6198875B1), TIRIS Based Bios for Protection of « Copyrighted » Program Material.

Sannino et al. (US 6043764A), System for Decoding the EFM and EFM-Plus Format in Optical Disc (CD and DVD) Read Units and Corresponding Method of Decoding.

Alloul et al. (US 6032130A), Multimedia Product Catalog and Electronic Purchasing System.

Newman (US 6353890B1), Method for Copy Protecting A Record Carrier, Copy Protected Record Carrier and Means for Detecting Access Control Information.

Davis et al. (US 5809006A), Optical Disk with Copy Protection, and Apparatus and Method for Recording and Reproducing Same.

Smith et al. (US 5815484A), Copy Protectable Optical Media Device and Methodology Therefor.

Van Wie et al. (US 5943422A), Streganographic Techniques for Securely Delivering Electronic Digital Rights Management Control Information Over Insecure Communication Channels.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Debra F. Charles whose telephone number is (703) 305-4718. The examiner can normally be reached on 9-5 Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung Sough can be reached on (703) 308-0505. The fax phone numbers

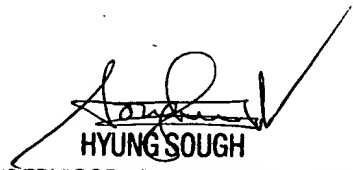
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for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Debra F. Charles  
Examiner  
Art Unit 3628

dfc  
April 7, 2003

  
HYUNG SOUH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600